

**ECONOMIC DEVELOPMENT AND ENERGY COMMITTEE  
of the  
Suffolk County Legislature  
Minutes**

A regular meeting of the Economic Development and Energy Committee of the Suffolk County Legislature was held at the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York in the Rose Y. Caracappa Auditorium on Thursday, **May 24, 2001** at 2:30 p.m.

**MEMBERS PRESENT:**

Legislator Jon Cooper, Chairman  
Legislator Andrew Crecca, Vice Chair  
Legislator Ginny Fields  
Legislator Martin Haley

**ALSO IN ATTENDANCE:**

Paul Sabatino II, Counsel to the Legislature  
Gerard McCreight, Legislative Aide to Legislator Cooper  
Nanette J. Esse, Legislative Aide to Legislator Fisher  
Linda Bay, Legislative Aide to Presiding Officer Tonna  
Kevin Duffy, Budget Review Office  
Todd Johnson, IR/County Executive's Office  
Alice Amrhein, Department of Economic Development  
Peter Quinn, Long Island Coalition  
Gordian Raacke, Citizens Advisory Panel  
James Potter, PPL Global  
Bill Miller, Clearview Consultants  
Donald Warner, Kings Park Energy  
Brad O'Hearn, KPE  
John Mendola, Townline Association  
Allen Leon, Townline Association  
Anthony Altieri, Townline Association  
Terese M. Altieri, Townline Association  
Bill Steibel, Sierra Club – Chair, Energy Committee  
Other Interested Parties

**Minutes Taken By:**

Kimberly Castiglione, Legislative Secretary

*(The meeting was called to order at 2:45 p.m.)*

**CHAIRMAN COOPER:**

Good afternoon. I apologize for the absence of two of my colleagues, but I think that in deference to the people that have shown up on time that we will not delay this meeting any longer and hopefully they'll get here before the end of the meeting.

I would like to start off with the Pledge of Allegiance. Legislator Fields.

*(Salutation)*

Thank you very much. We have a number of speakers that would like to address the committee. Starting off on the agenda we had Legislator Vivian Fisher. Legislator Fisher is unable to attend because of an emergency that arose, but her Legislative Aide, Nanette Esse, will be addressing the committee. Thank you, Nanette.

**MS. ESSE:**

If Gordian Raacke could also come up. 2286 had been submitted recently with revisions and Legislator Fisher wanted me to come in and talk about the revisions and the resolution itself, a local law to require power plant emissions evaluations and to answer any questions you may have. It will be on the agenda for the closing of the hearing on June 5<sup>th</sup>. Maybe we can just go over it a little bit. I don't know if you have any questions.

The changes are that it has modified the required carbon dioxide reductions from 30 to 20 percent; that there would be an aggregated emission cap set beginning March 1<sup>st</sup>, 2003; and a one percent per year reduction of CO2 beginning March 1<sup>st</sup>, 2004. And that the emissions per 100 megawatts of electric generating capacity would be installed prior from – I think up to 20 percent instead of 30 percent. And the emissions credit trading provisions are modified to cover energy conservation efficiency and alternative energy sources. Penalty donations to environmental organizations designed to implement CO2 reduction strategies are authorized, and the penalty provisions were reduced from five to three dollars in the first year, and one dollar per ton in subsequent years. This is after Legislator Fisher had talked to representatives from LIPA and KeySpan.

*(Legislator Haley arrived at the meeting at 2:47 p.m.)*

Second, there is a packet of information that has a summary of the bill. The intent, the mechanisms, fines, the affected plants, information about costs, administrating agency, reverse preemption, similar local legislation, and other important facts that Gordian Raacke has prepared.

So I think that that makes it a little simpler to understand. So if in effect you are paying penalties, it is because you didn't do anything to offset the CO2 emissions. It is just like Gordian has spoken to me earlier. If you're constantly driving 90 miles an hour on the road where it is a 55 hour speed limit, you are going to get a ticket. But if in fact you follow the law, you are not going to get a ticket.

So a lot of the numbers that you heard thrown at you as far as costs being passed on to ratepayers, in essence that is only if you do nothing. And a lot of the times what they do when they give you those numbers are include the things that they have to do with by law – mercury -- and they put all the numbers together and there is a report from the Natural Resources Defense Fund in the packet that explains that, the global warming in depth analysis. It talks about the President and the federal view of excluding now CO2 from any regulation. So I think most of the information that I have in the packet is – also there is an article that says, "Utilities Make Their Own Plans For CO2 Curves." Some people are already doing something without it being forced on them. I think that is important.

Second, there is an editorial, I know when Legislator Fisher's bill first was laid on the table there was a lot of negative – well, really just one negative editorial from Newsday I should say. What is interesting is when the President removed CO2 from being regulated on a national level, Newsday gave him a negative editorial. "Bush Switches On CO2, Abandons Global Warming Goal."

*(Legislator Crecca arrived at 2:50 p.m.)*

I think most of you are very aware of all the articles that have come out about global warming and the concerns that the Legislator has. There is also in the packet what is happening locally in Suffolk County, the Northport Plant emitting over 4 million tons a year on average of CO2. Port Jefferson Plant, 1,300,000 tons of CO2. So that there is a concern about what is happening and being responsible and doing something here to try to have the parties that are polluting to make up for it CO2 credits, to do something that is positive for Suffolk County.

Gordian, did you want to add anything?

**MR. RAACKE:**

Maybe just to add the fact that in only four years, between 1995 and 1998 CO2 emissions

from power plants, from the major power plants here on Long Island, have increased by 55%. When I saw that fact I was shocked. A number of factors contribute to that, but that is an amazing increase in emissions, and of course with increased CO2 emissions you also see an increase in all the other pollutants from power generation.

**CHAIRMAN COOPER:**

Gordian, first of all, if you can state your name and title just for the record.

**MR. RAACKE:**

Gordian Raacke, Citizens Advisory Panel, Executive Director.

**CHAIRMAN COOPER:**

Perhaps you can address a couple of practical issues that arise, vis-à-vis this legislation. If this local law does not go into effect, or if it were to go into effect, what would be the practical impact on, do you think, on pollution emission levels, and just as importantly, the cost of energy to consumers. If you can address both of those issues.

**MR. RAACKE:**

If the law does not go into effect, it is possible that carbon dioxide emissions will continue to rise. This law basically provides an incentive to burn fossil fuels more efficiently because the only practical way to reduce carbon dioxide emissions from power plants is to have a more efficient plant, to use more of the raw fuel, more of the natural gas or the fuel oil, and turn that into electricity. So this law provides an incentive to waste less energy and to be more efficient at the generation level, at the power plant level.

**MS. ESSE:**

Which is a cost savings to the power plant company.

**MR. RAACKE:**

Which of course leads to savings on the fuel costs which in this day and age is a major concern for LIPA and many other power plant owners.

**MS. ESSE:**

Which could lower our energy costs.

**MR. RAACKE:**

Absent this law there is no other regulation currently in place on CO2. There is no federal legislation or regulation in place that controls CO2. There is no State legislation or a regulation in place that controls CO2. CO2 and one other major pollutant, which is mercury, are not currently regulated by any other regulation or law.

**CHAIRMAN COOPER:**

Gordian, if you can play devil's advocate for a minute. Could you let us know, could you try to represent the industry's position on this law and why is it there seems to be concerns on their part about its implementation?

**MR. RAACKE:**

I think the industry is split on this. The industry that has more efficient power plants and is proposing more efficient power plants would support this legislation because it rewards having cleaner and more efficient power plants. The part of the industry that has old and very inefficient and polluting power plants would most likely say this imposes an undue burden on them because they would have to do something to – they would have to make an investment or comply with this law through a variety of other means. And by the way, this law is very flexible. It provides great flexibility in terms of compliance. But the folks who own old, polluting and largely outdated technology would most likely say that this is an undue burden on them.

**CHAIRMAN COOPER:**

Legislator Crecca.

**LEGISLATOR CRECCA:**

First of all, I apologize for being late. I had the wrong time down. If I missed something and I end up asking a question that has already been covered, I apologize.

I thought I heard someone say that currently there aren't – there is no regulations regarding CO2 emissions. Is that correct?

**MR. RAACKE:**

The CO2 emissions from power plants, correct.

**LEGISLATOR CRECCA:**

Do we know why that is the case?

**MR. RAACKE:**

I don't know.

**LEGISLATOR CRECCA:**

I guess my question – I am sort of backing into the question, is do we know for sure that CO2 emissions are dangerous? I mean, I would assume – I guess I am questioning the EPA regulates so many things at the federal level, and especially the Clean Air Act really was a comprehensive bill to try to address those things. There has got to be a reason why they left out the CO2.

**CHAIRMAN COOPER:**

But I thought CO2 was considered a pollutant under the Clean Air Act. Could you clarify that?

**MR. RAACKE:**

CO2 is actually not a toxin, it is not a pollutant. I mean, CO2 is a gas that contributes and is the chief contributor to global warming and climate change. I think as that – as the scientific facts have come in over time, I remember a few years ago there was still a big debate as to whether this is actually for real and whether this is manmade or a natural trend and so on. That debate has been settled I would think, at least to a large extent. I think as that debate and our knowledge about that has evolved, regulations and laws follow. There are currently several proposals in Congress to legislate and regulate CO2 as well as mercury, by the way, but none of them have been adopted.

So to be clear, CO2 is not a toxic emission from a power plant. It is the number one source for manmade global warming. It is the chief greenhouse gas in conjunction with methane, landfill gas, and there have been many attempts to mitigate our emissions of CO2. I would think that for Long Island, given our geographical location here and being an area where we are exposed to tropical storm, hurricanes, where we have to wonder what is going to happen to us if and when the sea level rise occurs as predicted, up to three or even four feet possibly within this century. This has particular meaning, of course, to Long Island.

**MS. ESSE:**

Legislator Crecca, the answer to your question is in the document that I included in the packet, Global Warming In Depth Analysis.

**LEGISLATOR CRECCA:**

Yes, I saw that.

**MS. ESSE:**

It says is there anything in the act that suggests Congress consider CO2 in the air, and explains there, it's corrected this section by itself, and it mentions – the section does mention carbon dioxide from stationary sources. It is correct this section by itself does not allow to require EPA to regulate any of the listed pollutants including CO2. Those authorities exist in other sections of the Act, and EPA has used those authorities to regulate other pollutants listed in Section 103. The fact that EPA has not regulated CO2 to date does not transform CO2 into a non-pollutant. In the early 1970's EPA has not acted to control lead pollution, but it was clearly a pollutant because of its potential adverse effects on health and the

environment.

**LEGISLATOR CRECCA:**

I see it.

**MS. ESSE:**

The EPA did subsequently establish it. It is interesting –

**LEGISLATOR CRECCA:**

This document was prepared by it appears the Natural Resources Defense Council?

**MS. ESSE:**

Yes.

**LEGISLATOR CRECCA:**

Who are they, if you know.

**MS. ESSE:**

The last past is testimony of David Hawkins before the Senate subcommittee on 3/21/01, which isn't that long ago.

**LEGISLATOR CRECCA:**

I'm sorry, which page is that?

**MS. ESSE:**

Page five.

**LEGISLATOR CRECCA:**

Of the same attachment?

**MS. ESSE:**

Yes.

**LEGISLATOR CRECCA:**

Okay, I see it. I don't have that testimony on page five of mine, but – oh, it was taken from testimony. I see what you are saying. I guess I am asking if you know who the author is of this document, the Natural Resources Defense Council. Are they an environmental group?

**MS. ESSE:**

Yes, national, internationally.

**MR. RAACKE:**

And RDC is one of the largest and most influential environmental groups in the country.

**LEGISLATOR HALEY:**

In your opinion?

**MR. RAACKE:**

I think that is widely regarded as being one of them.

**LEGISLATOR HALEY:**

I want your opinion.

**MR. RAACKE:**

My opinion as to the NRDC?

**LEGISLATOR HALEY:**

Yes.

**MR. RAACKE:**

I would say the NRDC is probably one of the most influential environmental advocacy groups in this country.

**LEGISLATOR CRECCA:**

You also mentioned that there is legislation pending at the federal level to regulate CO2. Do you know any of the particulars about that legislation?

**MR. RAACKE:**

There are a number of proposed bills. They are mostly referred to as for pollutant bills because they do not only regulate or attempt to regulate carbon dioxide but also three other gases, three other emissions from power plants – sulfur dioxide, nitrous oxide, and mercury in addition to CO2. And there are various proposals. I have looked at some of them. Some of them take a less flexible approach than this legislation. They allow for less means of compliance. They have different levels of disincentives or fines in there. But this bill is largely similar to a bill introduced at the New York City Council level and the only difference between this bill I believe at this point is that this provides in addition to a per unit limitation also an overall limitation.

**LEGISLATOR CRECCA:**

I guess – you started to answer my next question, believe it or not, which was my understanding is that normally these type of regulations, of air pollutants and the like, is done mostly – most of that legislation is done at the federal level. I guess I am asking you first of all as a question of somebody who probably has more background at least with energy and certainly emissions, wouldn't that be true that this type of legislation is normally done at the federal level?

**MR. RAACKE:**

Absolutely, and of course it would be preferable to have legislation like this at the State or better yet federal level. I think if absent some action, some quick action at the federal level, given the facts that we have a lot more to worry about in terms of climate change here on Long Island –

**LEGISLATOR CRECCA:**

Are you aware of any other local government that has adopted regulations similar to this?

**MR. RAACKE:**

As I said, the New York City Council is in the process of considering this bill and is, according to some people, expected to adopt it, but we'll see on that. There are some other areas in the country where similar approaches are either under consideration or have already been adopted. One that I am aware of is Oregon and also Massachusetts.

**LEGISLATOR CRECCA:**

It is statewide legislation in those cases?

**MR. RAACKE:**

Yes.

**LEGISLATOR CRECCA:**

I have no further questions right now.

**CHAIRMAN COOPER:**

Legislator Haley.

**LEGISLATOR HALEY:**

Did we get any idea of the fiscal impact to Suffolk County?

**MS. ESSE:**

Well, they are working on the fiscal impact statement, but from what I gather, we are talking



about one additional employee, and then that being offset by penalties, in other words, the administration of the program. So it would be a wash.

**LEGISLATOR HALEY:**

So we don't have that yet.

**MS. ESSE:**

That will be before –

**LEGISLATOR HALEY:**

I imagine – I am trying to imagine, no offense to the Chairman, that we create plant emissions evaluations in Suffolk County and Nassau decides to do the same thing but a little bit different, but just a little bit different than we do, and then New York does something a little different and New York City and the rest.

You know, I love that the Suffolk County Legislature loves to be on the leading edge of all of this stuff, but I find it kind of absurd if this recognition of carbon dioxide as a pollutant is as profound as you present, I can't imagine why the State of New York or Congress hasn't done something to date.

**MS. ESSE:**

The Governor is quite concerned. He just started a CO2 task force. He is zeroing in on something that we have been working on over the last year –

**LEGISLATOR HALEY:**

Good. You answered my question – or you answered what my point is. Then we don't need to do this because we have the State working on it.

**MS. ESSE:**

We are ahead of them.

**LEGISLATOR HALEY:**

What is the point of being ahead of them?

**MS. ESSE:**

It doesn't hurt because in actuality if you are already on board and everybody is already in a program –

**LEGISLATOR HALEY:**

First of all, you are going to establish a program that may be entirely different from a program that the State may establish or that the federal level may establish.

**MS. ESSE:**

Then ours just goes out. As soon as theirs comes in, it is written in the legislation, it is just extinct. If something happens at the State level we don't continue to be, you know, to have a different policy. Ours just –

**LEGISLATOR HALEY:**

I am concerned about the resources that are typically available at a State level or at a federal level to ascertain – consistent with talking with the industry, what might be a bona fide approach. Now, I appreciate your thoughts and considerations –

**MS. ESSE:**

We've been talking with the industry. Legislator Fisher has been meeting with LIPA and with KeySpan. We are talking with our – I mean, we are not talking with all over New York State, because it is –

**LEGISLATOR HALEY:**

Let me know when you are finished.

**MS. ESSE:**

I'm sorry.

**LEGISLATOR HALEY:**

Thank you. I am glad you have resolved all of the problems of the State of New York and the United States concerning CO2 emissions and the impact it may have on global warming. But I really find it far reaching to think that it is within our capabilities to ascertain which is an appropriate approach to this. I don't think that you have the resources, no offense. I don't think I have the resources. I don't think Gordian has the resources, to ascertain which is the appropriate approach to this, which could have not only a far reaching impact on the operation of utilities locally, which by the way we are always concerned about the energy, energy being a big question not only on Long Island and New York City, but California and the like.

It seems to me that for us to expend our time and energies in an area with which we can only do a very little bit of homework and don't give the State and the federal government the opportunity to provide those regulations that are going to give consideration to all of those things, whether it is even considerations internationally, as to what we can do regarding global warming.

I don't know that that issue as to what causes global warming has been settled. If you talk about cyclical weather over the short-term, whether it is daily, hourly, yearly, decades or centuries, we find that there may be a point at which we actually cycle out of what we call global warming. So I am not convinced at all that this is the approach and that we are going to resolve the problems of the world in this Legislature. I would like to yield to Legislator Crecca.

**LEGISLATOR CRECCA:**

That is because I passed him a note saying could you yield to me for a second. I guess because Marty brought up a point about the fiscal impact. I think he is talking about the legislation on the County's cost. I don't know, has anyone looked into what the fiscal impact is to ratepayers? I guess my question is, is that obviously this is going to involve costs to the utilities who are operating, and do we have any data or do we have any idea of what effect this is going to cost, what is this going to cost ratepayers in Suffolk County.

**MR. RAACKE:**

Thanks for that question. That is an important question to ask. I don't have an analysis of that. I can tell you in general terms that of course you'd have to look at both the cost on one side and then the benefits or the savings on the other side. Obviously the costs are going to be any additional cost of upgrading facilities or making facilities more efficient or switching to a cleaner fuel such as natural gas and so on. In some cases those costs are non-existent because some of the facilities may have to be upgraded anyway because they are very old. In some cases a new power plant being built may already incorporate that technology. In fact, without checking out specifically, I believe that all the new – all the currently proposed facilities would meet and by far exceed the standards, well below the standards in this legislation. From that perspective there would be additional costs only in certain cases with some of the existing older facilities that again may have to be replaced or upgraded anyway.

When you look on the benefit side of course you have savings on the fuel side. You are burning less fuel to generate more or the same amount of kilowatt hours. You also have savings, of course, in societal costs and health costs and global warming mitigation costs. That is difficult to quantify.

**LEGISLATOR CRECCA:**

Right, and I don't think that anyone here including Marty is saying that it might not be a good idea to control CO2. I guess what I was saying is that it is difficult to sit here and vote on a piece of legislation and not even have any type of sense of how it is going to affect electric rates for Suffolk County residents. I agree with you, but we need to update a lot of



our plants, not just for CO2 emissions, but for energy efficiency reasons. But in the same respect, too, you know I hate to see this legislation drive what are already very high rates up even more and have that responsibility on my shoulders without having at least a little more information to know what the impact would be on the ratepayers. That is one concern, and I certainly would not – I am not – I wouldn't want to move forward on this until I saw what the fiscal impact was in Suffolk County, especially given our budget situation this year. I would assume that is forthcoming from Budget Review sometime soon. Those are two items on the economic end of this that we really need to look at before we move forward with it.

**MS. ESSE:**

You won't be voting. You'll just be tabling it today. The hearing isn't closed yet, Legislator Crecca, not until the 5<sup>th</sup>. We just wanted to come to talk to you about the changes from the original bill submitted. Also, that when you look at the summary of the bill, it does mention, and I talked to Mr. {Frajeria} from KeySpan this morning, and the bill itself doesn't just automatically give someone penalties. It gives them a whole host of different alternatives that they might do that may be an alternative project or conservation project or something along that line. So you are not really just talking about a straight cost penalty.

**CHAIRMAN COOPER:**

Gordian, is it possible for power plants to comply with these new requirements and avoid the fines and the penalties without in the process reducing our energy generating capacity on the Island? Can you upgrade a facility without shutting down the facility, or does it have to be shut down which would mean it may not be possible to upgrade these plants so that they could comply without penalties until we build new power plants.

**MR. RAACKE:**

Yes. The question, if I understand it correctly, would be could we undertake a repowering project without losing a substantial amount of capacity during the summer. That can be done if it is done correctly. Basically what you do is let's take the example of Northport where we have four units. You could be adding a fifth unit first that would provide the equivalent or more capacity than unit one, two, three or four. Once that is in place, you would then take down unit one, repower that one, which would add additional generation.

**CHAIRMAN COOPER:**

But you do first have to add generating capacity somewhere.

**MR. RAACKE:**

You will have to get through one summer. You cannot do it between let's say the summer of 2002 and the summer of 2003. So in order to repower, you have to take one unit down. That is what they are doing in Queens, for example, with the O'Ryan Astoria project and many other places across the country.

If that answers your question I just wanted to add that of course the way the law is written it is based on an average of the last three years. That average has a fairly high level. So it is not a drastic reduction, all of a sudden you don't have to jump from here to there. It is a fairly high level of emissions. You could even meet that level by burning more natural gas and less fuel oil for several years. It only gets ramped down if additional new capacity gets added, and it only gets ramped on one percent per every hundred megawatts of new capacity added. So it is not a drastic limitation. It is a very reasonable standard that is not very hard to meet, even for some of the older plants.

**LEGISLATOR HALEY:**

Just imagine that from a policy perspective. You know, we are constantly dealing with worldwide supplies and everything like that, and when you want to develop something that is comprehensive you have to be able to perhaps put in mechanisms that is going to account for the supplies, the fuel supplies that you are dealing with. It is great to say on any given year you know what, we have done more natural gas and it seems to be working real well and then all of a sudden in order to comply with this regulation they are using more natural gas and then they wind up with a natural gas blip in the market there whether negatively or positively – in this case negatively, that could actually push them towards fossil fuel. So

what kind of mechanism would you put in to resolve that issue? That is what I mean when I talk about the complications involved with establishing something like this.

Now, when you talk about the analysis – we give you a lot to do, I think, you know, in keeping an eye on LIPA and what is going on. And I know that we as a committee have the ability to charge you with I guess certain tasks. My concern would be if the committee is inclined to charge you with the task of analyzing this type of legislation concerning the cost to the ratepayers, the pros and cons, is that going to detract you from some of the other things that you are already doing for us? Obviously the other question is going to have to be answered by Budget Review Office concerning the fiscal impact.

**MR. RAACKE:**

Obviously the answer is yes. There is only 24 hours in my day, so anything else I take on it does take away from other tasks.

**CHAIRMAN COOPER:**

Are there any other questions? Thank you, Nanette. Thank you, Gordian.

**MR. RAACKE:**

I just wanted to, if I may while I am up here, I wanted to point out also that I have prepared a draft memo for you as you had asked me last time on the nine mile point issue. So if you have any questions on that between now and the next meeting or at the next meeting I would be happy to answer any questions.

**CHAIRMAN COOPER:**

Gordian, could you do a relatively quick synopsis of the report?

**MR. RAACKE:**

I can try. You have asked me to limit this to the facts, and that is what I have tried to do. I gave you some background in here on the Nine Mile point two, one and two reactor, on the sale itself. The sale basically involves three – I'm sorry, four New York State Utilities that share ownership in those reactors. The fifth one, LIPA, is not selling. The four utilities, New York State Electric and Gas, Rochester Gas and Electric, Central Hudson Gas and Electric, and Niagara Mohawk are selling their share to Constellation. Constellation is originally Baltimore Gas and Electric. They own both conventional generation as well as the {Calvert} Cliffs nuclear reactor down there.

They are now spinning off into different subsidiaries. There is actually a stock split. One is going to be a company that is going to own some assets in the generation field and the other one is going to be a company that is mainly engaging in energy services and will not really have assets.

The owners of Nine Mile One and Two, unit Two is the one that has – where LIPA – where we have an 18 percent share. The new owner is not going to be Baltimore Gas and Electric or Constellation itself, but a new entity, limited liability corporation set up called Constellation Nuclear.

The surprising thing that I found when I went through some of the background material on this was that in the LIPA Act actually there is a provision that requires that LIPA make, quote unquote, “make every effort” to sell its interest in Nine Mile Point Two either through the New York Power Authority or to any or several of the co-owners, the co-tenants. I still have not been able to ascertain whether LIPA has made all – every effort to do that. LIPA has simply stated in the various documents that I have reviewed that it is not in LIPA's interest to sell its share.

There are a number of issues and concerns that I have outlined in here. One is that being the only owner left here in this deal makes of course Constellation the majority owner. It would be very difficult, and in fact LIPA acknowledges that, it would be very difficult to have adequate representation there. Constellation could decide to do things that may not be – going forward, that may not be in our interest, that may not be in LIPA's interest, and we

may not be able to stop them from doing that whereas in the past when there were several owners there was a more diversified representation of interest there.

Some of the concerns that I have heard from other people in the industry focus on Constellation being a non-union employer and trying to drastically cut costs. In fact, Constellation has just won an award from the Nuclear Energy Industry Association for reducing expenses on safety related issues. When I saw that press release it made me worry a little bit about that. I am not sure what exactly that means in terms of the employees, the workers at the Nine Mile Point One and Two units now because they are unionized, but I wanted to point that out as well.

There are a number of concerns regarding financial capability of the new owner. This being a non-regulated entity coming not from within New York State but from outside the State and being a limited liability corporation could be cause for concern in a number of scenarios. There is of course the issue of the decommissioning fund. The decommissioning fund may not be adequately funded. A question is who pays for that and to what extent do we pay for that if there was an early decommissioning or if the fund doesn't continue to get funded in the way LIPA currently hopes that fund accrues.

**LEGISLATOR HALEY:**

Mr. Chairman.

**CHAIRMAN COOPER:**

Legislator Haley.

**LEGISLATOR HALEY:**

This is a draft?

**MR. RAACKE:**

I have submitted it to you as a draft because I wanted to know whether you had any additional questions that you wanted me to cover in here.

**LEGISLATOR HALEY:**

Well, we were researching as to facts. Then my suggestion would be, although there are some concerns that don't necessarily relate the facts on page 16, I thought that our approach originally was to try to get a synopsis of what we considered the facts and then have LIPA be able to address those and answer those things and see whether or not they agree or disagree as to the facts. Then we could ascertain what we think we would recommend, if any actions, to the full Legislature.

My suggestion would be is if we could, and I don't have a problem with this, is to cull out of this the concerns that you have, reduce it strictly to facts. Just separate it out. It could be included and then – Mr. Chairman, if the committee would be inclined to put a cover letter on it to LIPA and ask them to do two things. Number one, agree or disagree as to the facts, and secondly answer those concerns that you enumerated.

**CHAIRMAN COOPER:**

I really see no problem in submitting – Gordian's point –

**LEGISLATOR HALEY:**

It was a draft, he just has to –

**CHAIRMAN COOPER:**

He was just waiting for additional input from us to see if additional questions arose. If not, this could be turned into a final report and this could be forwarded –

**LEGISLATOR HALEY:**

I don't have a problem with that. I just want to make sure you differentiate between facts, that's all. I just want to make it very clear to LIPA so that they don't come back with some ambiguous response to it. I want to separate out what might be their political answer versus what might be the facts, that's all. Any way you would like to do it, Mr. Chairman, is fine with me.

**CHAIRMAN COOPER:**

Is there any additional information – well, why don't we take a couple of weeks to review the report, see if we have any questions that arise as a result of this, whether we would like to have further elaboration or not. Then perhaps at the next committee meeting or before the next committee meeting we can let you know, Gordian, whether this is indeed satisfactory and then it can indeed be forwarded to LIPA for their comment.

**MR. RAACKE:**

I have also, as you may have noted, on the first page there I am saying that I submitted a formal request to LIPA to get additional material that I have not been able to get through other sources. That is being processed by LIPA. I got the confirmation that they are working on that. So as soon as I get that I can work the additional information either into this memo or into an additional memo.

**CHAIRMAN COOPER:**

Thank you, Gordian. We will now move on to the next speaker. We have James Potter, Executive Director of Kings Park Energy and Director of Business Development for PPL Global. I believe we also have William Miller from Clearview Consulting. Is that correct? Welcome.

**MR. POTTER:**

Thank you, Mr. Chairman.

**CHAIRMAN COOPER:**

If you could please state your names and titles for the record.

**MR. MILLER:**

My name is Bill Miller. I am President of Clearview Consultants and we are located in Miller Place, New York.

**MR. POTTER:**

My name is Jim Potter. I am Executive Director in charge of Kings Park Energy. First of all, we appreciate the opportunity to come here and speak with you today. What we would like to do is focus on several different issues here. First and foremost we want to focus on those issues that are most germane to your subcommittee, which is economic development issues and environment. But I would also like to speak about and talk briefly about the issue of need, which is also related to the issue of economic development, and the status of the project. I think it is important that the community and your subcommittee members understand where we are in terms of the whole project status and where we are in the Article 10 process, which, as you are aware, is implemented out of various State offices up in Albany, New York.

Let me start with project status. First of all, as you are aware, we have to go through a process of filing an Article 10 application. We have a team of experts, air scientists, geologists, socioeconomic experts, experts on wetlands and a whole host of issues working on a very detailed report which we intend to file here shortly. But more recently we have achieved some very significant milestones. The most significant one is that we recently filed our air permit. This is an air permit application that is filed with the Department of Environmental Conservation. That was filed last Wednesday. That is a significant document and we will be issuing a press release on that shortly. It takes a significant amount of effort and undertaking and study and analysis through dispersion modeling and modeling of the output of our facility to develop this document and present it under a set of air protocol approved by the Department of Environmental Conservation. So that is complete and that is a very significant document.

The second most significant accomplishment here, which was actually achieved yesterday, was that our system reliability impact study was approved by the Operating Committee of

the New York ISO. Now, what does all that mean? What it means is that with the support of LIPA and KeySpan, we have completed a complex analysis that determines what implications our plant will have on the transmission system of Long Island and greater New York. There are very few projects that have ever reached the completion in this time period, and fortunately we have the full cooperation of LIPA and KeySpan to do so. But no other projects on Long Island that have been proposed have achieved this goal, and it is unlikely that a lot of them will in the near future because of the location of our facility.

As we have discussed in the past, our project is located in an area that allows for the interconnection to the Pilgrim substation. That is a relatively east interconnection in that it doesn't require huge or significant investments in new transmission infrastructure. So we have completed the studies, the New York ISO has reviewed it. What is called the T Pass Committee within the ISO has submitted their report to the Operating Committee of the New York ISO, and the final approval, which is reviewed and approved by every utility and a whole host of other members within the New York ISO, have reviewed it and approved it and the Operating Committee approved that yesterday. That is a significant undertaking. So that has been completed as well.

I mentioned the Article 10 application earlier. We hope to file our Article 10 application in mid-July now and we are in the final stages of completing various sections and we are also in the later stages of completing our negotiations of the project stipulations with various agencies in Albany as well. So we are making great progress in this project and things are rolling along quite well.

Let me then go on to an issue that is related to economic development and the issue of need. Power, as everyone knows, is really the life blood of an economy. Anyone that has gone to California recently will know, if they talk to the business leaders in California that the blackouts that are occurring in California are having a severe impact on new businesses seeking to locate there. The reasons are obvious. If you can't rely on the availability of power to run your equipment, to run your machines, to provide air-conditioning for office buildings on a hot day, you have major problems.

If you talk to the business community here on Long Island, the business community here is scared. They are worried that insufficient power will be available and that has huge implications on the value of their existing assets here on Long Island, such as office buildings, industrial parks. These assets will lose billions of dollars of value if there are blackouts here on Long Island.

Now, what is the likelihood of blackouts occurring on Long Island? Given the process that you have to go through to get a project reviewed and approved and constructed, it is unlikely that there will be a solution, that there will be sufficient generation added for many summers to come. And what I mean by significant generation, Long Island needs several hundred megawatts just to catch up to where it should be from a reliability standpoint. They need at least twice that to have an effective and competitive market for power.

Our facility, Kings Park, is the only facility that has been proposed that could theoretically come on-line by the summer 2003. What that means is that you have this summer and next summer to keep your fingers crossed that you don't have a hot summer and you don't suffer the ravages of a blackout here on Long Island, because the implications to the business community and the economy as a whole are significant. I would encourage you to perhaps review some of the studies that have occurred in California already just to get a feel for the implications that they have. They are significant and I think it is worth evaluation. So that is the link, the link between need and economic development and our project is the first project to come on-line for any other projects here on Long Island to help solve that problem.

Did you have a question, Mr. Chairman?

**CHAIRMAN COOPER:**

I did, because I think you just touched upon what is probably the key question here, which is not whether or not we need to build additional power plants on Long Island to maintain



adequate energy generating capacity. The real question is where should these plants be built and when are they needed.

So the first key question is whether we need a new plant by December of 2003 or whether we can wait until 2004 or 2005. If there is a consensus, a clear consensus that a plan is needed by 2003, then I guess we need to look where we can site such a plant and have it built in time. I am not convinced that we have that consensus at this point. I have spoken to people on both sides, both the environmental community and the energy watchdog groups as well as the energy companies, some top people there, and I don't know if we have that consensus right now.

Getting back to the question on the minds of a lot of people here today about whether Kings Park is an appropriate site for a power plant. A lot of it rests on this very issue, when do we need to have a plant constructed and if it needs to be by the summer of 2003, that is one thing. If it does not need to be the summer of 2003 and if we can wait another one year or two years or perhaps longer, then there may be a lot of alternate sites that we can look at, whether it is Spagnoli Road in Melville, whether it is Shoreham, or what have you. Would you like to address that briefly?

**MR. POTTER:**

Let me address part of that by talking about another region, another control area, a region, the New England Power Pool, very similar in size to the New York Power Pool, which is what it used to be called. Now it is the New England ISO versus the New York ISO. They both are similar size in terms of total need. New England has up and operating or under construction right now roughly 10,000 megawatts, ten thousand megawatts of new generation. That is over a five billion dollar investment, closer to six billion dollar investment.

Now, what impact has that had on the economy up there? Well, first of all, it has pretty much eliminated any prospects of blackouts in New England, number one. Number two, it has created a market where wholesale prices are significantly less than what they are in New York. Now, why is that? The reason for that is you have a much larger base of generation that is competing on a daily basis to serve the need for the next day, and that competitive dynamic has driven prices down. In the forward markets, that is the forward markets that you can buy and sell into, the curve continues to go down because of that increase in available generation. They actually project a reserve margin in New England of over 30% and closer to 40% reserve margin, which means that there is 40% more generation available on a peak day than is needed. But that excess generation competes every day to serve load, and that competitive dynamic is dropping prices significantly. So that is one issue. That is one reason.

**CHAIRMAN COOPER:**

Legislator Haley's question is why can't we just tap into that oversupply?

**MR. POTTER:**

Well, of course that is a good thing to do. It is a good thing to do is to tap into that oversupply. We are fully in favor in the cross Island cable and think the cable would be an excellent way to help solve some of the problems --

**CHAIRMAN COOPER:**

But if we were to do that through additional transmission lines, and if we could practically tap into that supply, would that obviate the need for in the short-term additional power plant construction on the Island?

**MR. POTTER:**

It would certainly help. But I think anyone in the energy business that understands the real energy issues here realizes that new on-Island generation is needed. Let me elaborate a little bit.

First of all, New England does not want to be the producer of power for Long Island. The primary reason I think is that when you take power away from a region it has the effect of



decreasing the competitive dynamic there. It is like if you reduce the amount of gas stations in Suffolk County and there was only two gas stations available. Prices obviously would go up at that gas station. And in the case of Connecticut -- I'm sorry, in the case of New England, you also have a fragmented system. Like any region, you have a fragmented system where they are not always well connected. So if your lines are connected to Connecticut, it has an impact on wholesale prices in Connecticut, not in New England, but Connecticut. So I think one of the reasons for opposition to the line from New Haven down to Shoreham is that it would adversely affect prices in Connecticut. It would decrease the competitive dynamic, which has the impact of increasing prices and Connecticut doesn't want to do that.

Let's talk about need a little more. What was interesting about Vivian Fisher, Legislator Fisher's legislation was that the advent of the addition of new generation in a region, given the emission's controls that you put on new generation create a situation where a lot of the goals and objectives of her legislation are met. The projections that have been developed in this {Maps} analysis that was conducted by a consultant in Cambridge, Mass., and an analysis, by the way, that we have to do per the requirements of the Department of Environmental Conservation here in New York, show that our project and any other new project using the latest generating technology improves air quality in that region. This is a general fact. And in the case of CO2 emissions, the reduction associated with our facility was estimated to be 202,000 tons a year because you are displacing older, dirtier facilities that have different emissions profiles.

So what does that mean, what does it mean? What it means is our facility, contrary to what you may have heard, actually reduces power plant emissions on Long Island and in Commack in Kings Park. That is a fact. No one can claim otherwise unless they have done the studies themselves, and if they do so, they will reach the same conclusion. These are accepted study protocols by any environmental agency.

I might also add that the Natural Resources Defense Council that you mentioned earlier as being a significant environmental entity within this country, within North America, supports the construction of new gas fired generation. Why do they support it? This is an environmental agency that supports new projects. Why? Because they know that it improves air quality. It helps displace older generation. The only way you are going to improve air quality in a region is by displacing older generation with brand new stuff.

**CHAIRMAN COOPER:**

And how is it that you would guarantee that the older technology plants would be displaced by the new construction?

**MR. POTTER:**

It is very simple, Mr. Chairman. If you produce a unit of electricity on a given day -- let's take today as an example. If a brand new plant produces a unit of electricity it has to displace something else from producing that same unit. You can't produce more than is needed, because you can't have more power produced than consumers need on any given instant. So at this very instant there is a controller up in Schenectady, New York, running the whole system that makes sure there is just enough power being generated. Can't produce more, can't produce less. So if we come in with a brand new generating resource that is burning natural gas that is clean and quiet, it has to displace some other dirtier resource, some other less efficient resource on Long Island. So that is the guarantee you get. Physically there is no other conclusion you can reach.

The only time you don't displace is when you have an absolute peak day when every piece of generating resource has to run to serve load to avoid a blackout. And under that scenario, if our plant wasn't available, there would be a blackout. I would encourage you to talk to the NRDC -- actually the Sierra Club is also a supporter of brand new gas fired projects in California, because they know they help displace older generation.

Did you have another question?

**CHAIRMAN COOPER:**

No, but I believe that Legislator Fields did.

**LEGISLATOR FIELDS:**

Last year we had a different makeup of the Energy Committee. Did you give us a presentation?

**MR. POTTER:**

Yes, I did.

**LEGISLATOR FIELDS:**

I recall, I believe that the division of our Health Department, the Environmental Division of our Health Department had some questions that they were not completely -- I don't know exactly what the word was, but there were some problems that they thought either on the backup system or where the tanks were or something negative that they felt. Is it possible for us to hear from that division of our Suffolk County Health Department to give us an objective analysis of this presentation of what they would like to have in the future?

**MR. POTTER:**

Well, there is a couple of things. Can I take a shot at it, Legislator Fields? There was a couple of things being discussed. First of all, the Department of Health, as I understand it, the Department of Health's regulatory guidelines and boundaries do not include oversight of air emissions. That's the Department of Environmental Conservation. However, because they are a health agency and they are concerned about these issues, they have been following the air issues as it relates to our facility. We have actually forwarded to the Chairman of the Department of Health the air permit that we filed last Wednesday. We have forwarded a copy of that as we forwarded -- I think, Mr. Raacke, you received a copy, I think there is 88 or 90 people on our service list. So they will have their opportunity to review any concerns they might have.

We have also made available on our website what is called the Lexicon analysis, which looks at the benefits associated with installing new generation in a region and the reduction in air quality that -- the reduction in air emissions in a region. That is available on our website.

**LEGISLATOR FIELDS:**

That is looking for the positive in your analysis, but there are some negatives also, and that is what I believe that they pointed out at that -- around the time that you were doing your presentation.

**MR. POTTER:**

I think the negatives were uncertainties as to what we were doing in terms of emissions controls maybe.

**LEGISLATOR FIELDS:**

I think there was a backup -- but I would look to ask for an objective analysis from our own department.

**CHAIRMAN COOPER:**

We can do that.

**MR. POTTER:**

Legislator Fields, if I could. They filed a response. We filed what is called a preliminary scoping statement and they filed a response defining some of the concerns they had. I think it is accurate to state that -- and that response is a public response, but it was several months ago now. I think it is accurate to state that the majority of their concerns had to do with, not with air issues, but with the storage of oil on-site. That was the major concern they are having. They had concerns with whether we are in compliance with our Article 12 and whether we are in compliance with our Article 7.

I think it is accurate to say at this point in time that we are in the process of meeting with them and trying to understand specifically what the concerns are and how we can deal with those from a design perspective. I think that is primarily what their concerns are. But you can go back to the record and review those.

**LEGISLATOR FIELDS:**

Thank you.

**MR. POTTER:**

Can I go back to my presentation?

**CHAIRMAN COOPER:**

Sure.

**MR. POTTER:**

We were talking about economic benefits as it relates to the issue of need. Mr. Chairman, you asked the question about is the project needed in 2003. Well, the answer is unequivocally yes. Would any party that has ever operated a transmission system in a utility in a region want our facility with the circumstances that exist on Long Island today? The answer is yes, and here is why.

Long Island has what is called a reserve margin of roughly around five percent. That means on the absolute peak day in the summer, if every piece of generation was available, which it never is, never, but if every piece of generation was available and every transmission line were up and running, which it isn't always either, they have a five percent reserve. That five percent reserve -- the reserve margin is intended to be a safety margin to deal with unscheduled outages of both transmission lines and generation stations.

The typical accepted norm or standard is 18 to 20% reserve margin. Long Island's reserve margin is down around five percent right now. That is perilously close to an unacceptable situation where you get the right weather conditions and the right outages of units, then this summer there is likely to be blackouts. This summer. If you have hot days like you had in '99, the summer of '99, there is a very strong possibility that blackouts will occur just this summer.

I know when I drive around Long Island I see a lot of construction going on, office buildings, which are huge users of power, houses, and other mall, retail outlets and whatnot. That means that with low growth running at about three to three and a half percent a year, from this summer to next summer there is going to be another 250 to 250 megawatts of need. So the problem gets worse next summer. And then it gets worse the summer after that. I think if someone stepped back and did a legitimate analysis as to whether this project is needed this summer, the summer is absolutely yes.

Now, let's go to the issue is the site that we have proposed the right site. Well, what determines whether it is the right site I guess is one question, but we have looked at and are studying a number of different issues. One of them is air quality. Well, we have conducted our dispersion modeling analysis, we have presented the data to the DEC. There is an adjudicatory process through the Article 10 where people will have the opportunity to critique those analyses and determine whether we have done it right or not, but our analysis suggests that Kings Park in Commack and Long Island as a whole will have reduced power plant emissions because of this plant period. That is a fact. So as it relates to air quality, which seems to be a big issue over there, this facility actually improves air quality. It doesn't adversely affect health as a result of air quality, contrary to what you may have heard. So if you oppose this facility, you are against cleaner air.

Second thing, let's talk about visual impact. How many power plants exist today that you can't see? Well, Northport, Port Jeff, these are facilities that stand out like a sore thumb. Our facility, because of the unique nature of the site and because of the type of design we are incorporating on that site, will not be visible from but perhaps what is called leaf off

scenarios where the leaves are off the trees, two or three houses at the most. The rest of the time this plant will not be visible from any residence in Commack.

Noise. I would encourage people to go to a modern power plant today. If you stand in the parking lot of a modern power plant, you probably won't be able to hear the facility. We have some tough noise standards to meet in Kings Park and Smithtown, some very difficult noise standards, and we will have to design a plant using some complex wall designs to keep this facility so that it can't be heard over current backgrounds. That means they will not be able to hear this plant. So visually, unlikely they will see it, it will be quiet.

Truck traffic seems to be a big issue on Townline Road. We are eliminating the current use of that site which is a sand and gravel operation. I encourage you to go to the site, it's a sand and gravel operation. During eight months out of the year, there are as many as 200 trucks a week that go on and off this site. We will need significantly less than that, anywhere from 6 to 20 to 30 trucks a week at the most. That is a significant reduction in truck traffic on Townline Road and on and off this property.

So those are some of the reasons why this is the right site. There is a heavy industrial use on this property now and surrounding the property. There is a neighborhood to the south, the candy section of Commack, but the residents in that section of Commack will not be able to hear this plant, will not be able to see the plant, and they won't be adversely affected by it. We consider this plant to be a significant improvement to this site because the landscape scheme and what we intend to do with it versus its current use.

We kind of got off on an issue here. Going back to economics. This is a perfect investment in a community from a tax perspective. It is about a \$180 million investment. We will not need this corresponding municipal infrastructure to serve the facility, no schools, roads, water, sewer, none of that is needed for this plant. We are going to employ anywhere from five to 10 maybe 12 people at the most, so it doesn't create a burden on the community from an employment -- from a people standpoint, but it does create a huge tax benefit to the community. We would be the single largest taxpayer in Kings Park in Smithtown without, again, this corresponding burden of municipal infrastructure. That is a good thing.

We are also talking about some major union jobs here over a very concentrated time period of roughly a year construction. We have estimated \$15 million of union wages. These are high paying, high skilled jobs. The unions are looking forward to constructing this facility.

We have also put in place a project benefits program and we are working this out with Suffolk County Water Authority right now. This is a program where we are going to contribute half a million dollars to Suffolk County Water Authority so that they can take what is currently a contaminated well field in Huntington, install what is called a denitrification plant, and take away what is a contaminated shut- down well field, produce 1,600,000 gallons water a day and give us 300,000 of that. So Suffolk County Water Authority is going to end up with 1.3 million gallons more water per day as a result of this project benefits program. This is a good thing.

So on the economic front and the environmental front we think we have a great story to tell, and these are facts. Any statement we have made today or in any public setting is backed up by detailed analyses. So, we haven't heard any entity opposing this project that has provided any shred of evidence through a detailed analyses that would contradict what we are saying on traffic issues, on noise issues, on visual issues, or on air quality issues.

We have a handout and we also have available a -- I won't call it a brochure, I will call it a document that goes into all these issues in great detail. I believe we passed it out to Legislator Fields and other people that were on the committee the last time we met, a similar document although it has been updated to reflect modifications in our analyses. So we have that document. We also have a two- page document here that goes over what I have just summarized.

What I also wanted to add to that is a lot of people have asked questions about us as a company. I am proud to work for PPL. We have an excellent record of serving the

communities that we are located in. We have an excellent record of making major contributions to communities in a number of different ways, and let me just outline a few.

I oversaw the acquisition of a company up in Maine in the power business. It is up in Bangor, Maine. We donated \$50,000 to a museum up in Bangor in addition to making a number of other improvements to the facilities up there and the watershed. We own utilities all over South America. We happen to own one in El Salvador. When there was an earthquake in El Salvador, our employees opened their wallets and donated \$100,000 to people in El Salvador so they could buy medicine and supplies. We preserve over 25,000 acres of wildlife habitat and recreational nature preserves. We have donated millions of dollars, millions of dollars for upgrading campgrounds, beaches, boat launches and scenic areas along the Madison and Missouri Rivers in Montana because we own a lot of generation assets in Montana. We donated \$55,000 in { Wallingford }, Connecticut. We are building the same plant in Wallingford, Connecticut. We donated \$55,000 for a nature trail. I can go on and on. We have an excellent record for supporting the communities that we are located in. I think it is important that you have an understanding of that. That is on page two of this two-page document.

I think that basically summarizes what I had hoped to get across here today. Again, I wanted to focus on need, economic issues, environmental benefits, and who we are as a company.

We have this handout. If you have any questions, please feel free to contact us, go to our website, we have a lot of information in that, and we hope to someday have your support.

**CHAIRMAN COOPER:**

Jim, thank you very much. Bill, did you have anything to add to that?

**MR. MILLER:**

Simply to say that as a Long Island resident, as a perpetual engineer who has dedicated himself for over 30 years to Long Island's environment, I have been studying our situation with regard to balance of energy and environment. I have studied the particular instance that we find ourselves here on Long Island in Suffolk County, and I have attended every one of Kings Park Energy's public presentations. Jim and I have been talking to one another for the better part of eight months. I am really pleased to voluntarily step forward and become part of this Kings Park Energy team.

I believe that Long Island is a very unique place with regard to economic development and maintaining our economic balance, that energy is at the very fiber of that balance. I also know that this particular project stands with regard to all we want it to be in providing adequate, environmentally safe and affordable energy. Whatever I can do to also be a resource to this committee, being a professional engineer, an environmental engineer as well as a resident, I would like to step forward and do.

**CHAIRMAN COOPER:**

Thank you very much. There are no questions at this point. Thank you, Jim.

**MR. POTTER:**

Thank you.

**CHAIRMAN COOPER:**

And now, as I think they used to say on Monty Python, and now for something completely different we are going to hear from the next speaker. We have two gentlemen, I don't know if you would like to come up at the same time, two gentlemen -- you know what, we will take out a minute, we will go through the agenda. It should be very quick and then we will pick up with the public speakers, if that is okay.

**TABLED RESOLUTIONS**



**IR 2286-00(P) Adopting Local Law to Require Power Plant  
Emission Evaluations (Fisher).**

Motion to table.

**LEGISLATOR CRECCA:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed? The resolution is tabled. **(Vote: 4/0/0/0)**

**IR 2321-00 (P) Adopting Phoenix Financial Recovery  
Program for Long Island (Binder).**

Motion to table.

**LEGISLATOR FIELDS:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed? The resolution is tabled. **(Vote: 4/0/0/0)**

**IR 1027-01 (P) Directing County Department of Economic  
Development to Implement Accounting Requirement for the  
Downtown Revitalization Program. (Caracciolo)**

**LEGISLATOR CRECCA:**

Table subject to call.

**LEGISLATOR FIELDS:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed? The resolution is tabled subject to call. **(Vote: 4/0/0/0)**

**IR 1357-01 (P) Establishing Climate Protection Greenhouse  
Emission Program for Suffolk County. (Cooper)**

Motion to approve.

**LEGISLATOR FIELDS:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed? The resolution is approved. **(Vote: 4/0/0/0)**

**MR. JOHNSON:**

Can I comment on 1357?

**CHAIRMAN COOPER:**

Sure. Come on up, Todd.

**MR. JOHNSON:**

Todd Johnson from the County Executive's Office. We did have some conversations about this resolution. I don't know whether you are still considering making any changes to it.

**CHAIRMAN COOPER:**

I think at that – Gerard, was it going to be done as a CN?

**MR. McCREIGHT:**

Gerard McCreight from Legislator Cooper's Office. No, tomorrow I think at one o'clock is the deadline for corrected copies. We were looking to – right now the bill is set up to place the intern in the County Executive's Office and we are going to change that to place the intern in



one of the County departments. I spoke to Todd a couple of times today and right now we are looking at the Health Department.

**CHAIRMAN COOPER:**

We are on schedule – Health or Planning?

**MR. McCREIGHT:**

We had talked about Planning, and Todd got back to me and said the Health Department looked like a better choice because it has an environmental division.

**CHAIRMAN COOPER:**

And that is acceptable to the organizations who find the intern?

**MR. McCREIGHT:**

I don't think they have a requirement as to where the intern should be placed. They would just like the intern to be available, to have a desk and access to a computer with an e-mail address and some ability to gather information.

**LEGISLATOR CRECCA:**

Todd, with that change in it, is the bill acceptable to the County Executive?

**MR. JOHNSON:**

Yeah, well I just didn't hear any mention of a change being made, and without that change it would not be acceptable to the County Executive's Office. With that change, I haven't seen the changes as they have been finalized, but based on our conversations, if that change is going to take place, then – I would have to qualify our support, but you would have our support, then, I think.

**CHAIRMAN COOPER:**

I would make a motion to reconsider. So I would make a motion to table this resolution so it could be modified tomorrow.

**MR. McCREIGHT:**

Well, if it is tabled in committee today it won't even go to the Legislature.

**LEGISLATOR CRECCA:**

Motion to discharge without recommendation.

**LEGISLATOR FIELDS:**

Second.

**MR. JOHNSON:**

All I am saying is I would like a commitment that the changes that we discussed –

**CHAIRMAN COOPER:**

Again, we have no objection to that change. As long as we still have the commitment from the County Executive's Office that you will back the legislation with it coming from the Health Department, then that's fine.

**MR. JOHNSON:**

Okay. As I said, just – it is hard for me to commit without seeing the changes, but based on our conversations, if it is consistent with our conversations, then I don't foresee a problem.

**LEGISLATOR CRECCA:**

Just make sure you get the changes done by one o'clock tomorrow, that's all.

**CHAIRMAN COOPER:**

If you trust us, we'll trust you. How's that.

**LEGISLATOR CRECCA:**

So I will leave the motion to discharge without recommendation.

**CHAIRMAN COOPER:**

I will second that motion. All those in favor? Opposed? The resolution is discharged without recommendation. **(Vote: 4/0/0/0)**. Thank you, Todd.

**MR. JOHNSON:**

Thank you very much.

**Sense 137-2000 (P) Memorializing Resolution  
Requesting LIPA to Bury All Existing and Future Overhead  
Utility Lines Serving the North Fork and Shelter Island.  
(Caracciolo)**

**LEGISLATOR FIELDS:**

Motion to table.

**LEGISLATOR HALEY:**

Mr. Chairman, I have a note that says it was stricken May 8<sup>th</sup> per LADS.

**LEGISLATOR FIELDS:**

Then we don't even look at it today.

**LEGISLATOR HALEY:**

Maybe we could just verify that. Paul?

**LEGISLATOR FIELDS:**

Sense 137, Legislator Haley said LADS said it was stricken.

**IR 1444-01 (P) To Establish RFP Policy for Securing Grants  
from the Department of Economic Development. (Fields)**

**LEGISLATOR FIELDS:**

Motion to approve.

**LEGISLATOR HALEY:**

Explanation. I just want you to know how efficient my office is at checking.

**CHAIRMAN COOPER:**

That is one for you, Marty.

**LEGISLATOR FIELDS:**

Duly noted. This is a plan to – in speaking with many of the Commissioners in the County, we don't have the personnel to write grants, to search for grants. It is an onerous task of really getting all of the information that is necessary to write for a grant. There are grant writers, companies and people who do this for a living and they receive a percentage of the grant. This is not a contract where we are looking outside the County to pay someone. This is money that we would not ordinarily receive, we would not even ordinarily apply for because we have not or cannot. This would allow us to have a grant writer apply for a grant to be given to the County, money to come into the County, and the grant writer would receive a percentage of it.

**LEGISLATOR HALEY:**

Can we get a comment from Ms. Amrhein, Mr. Chair?

**CHAIRMAN COOPER:**

Please, Alice, come up.

**MS. AMRHEIN:**

Good afternoon. I just want to say I applaud the initiative behind the grant because I do believe that we could use more research into grants that exist. I had some questions about the format of the resolution that I would like answered, though. One is I am not sure that

paying a person on a consulting contract and getting them reimbursed as a percentage of the grant would be an eligible cost under a federal or State grant or even a private foundation grant.

**LEGISLATOR FIELDS:**

There are some grants that don't allow a grant writer to receive money. Those are not grants that this bill would allow us to go after. The grants that we are looking for are ones that are offered out there and there are quite a few where there are grant writers that are allowed to receive a percentage of it.

**MS. AMRHEIN:**

It is not clear in the resolution itself. That is not specifically mentioned. And the other issue is to whether paying someone on a contingency fee basis is correct under New York State Law. Is that something that State law allows us to do. Having had experience with this, you can get a ten million dollar grant, and if you were getting one percent, you are going to get a large salary. So, there is no limitation on how much the person could receive and –

**LEGISLATOR FIELDS:**

We would decide that on the RFP. We would decide it prior to the grant being written for. You as a department head would have great control over this on what grant – number one, if someone in your department is writing grants you don't want someone else competing. This is not a competitive situation where we are taking anything away from a County employee and you would have control over the whole grant process.

**MS. AMRHEIN:**

I just felt that some of these issues should be addressed in the resolution itself before we authorize RFP's to hire someone. They were really technical comments on the whole process.

**LEGISLATOR CRECCA:**

On the motion. I have seen a similar bill in the other departments on the committees I have been on, and I do commend Legislator Fields for the initiative here. My only objection, and I think there is a host of money out there that we are not tapping into from a grant perspective and I said that in the other committees and I will be brief here because I think Legislator Fields has probably heard me like a broken record on this one. I don't necessarily agree with the contingency basis of payment here. I think that while I understand about the duplicitous part of it that I think it allows department heads a little too much leeway in deciding whether or not an RFP should be put out or they should do it in-house.

With all due respect, and while I commend our Commissioners and our department heads, my concern would be that there are grants out there that are large and that they might be paying contingencies on when we could do it a lot cheaper in-house. I would recommend –

**LEGISLATOR FIELDS:**

May I interrupt?

**LEGISLATOR CRECCA:**

Sure.

**LEGISLATOR FIELDS:**

The point is that we can't do it in-house. We've heard that from just about every department head that we can't do it in-house. Why are you saying we should do it in-house?

**LEGISLATOR CRECCA:**

Because one of the things – I said it the very first time one of these bills came up is what I would like to see happen, and Todd is here today, the last two meetings there was nobody from the County Exec. But, Todd, what I was asking is that the County Executive sort of respond to the fact of if they have a way – first of all, I would like him to respond officially on these. We have seen some of the department heads come and have concerns about it but all

agree that we could tap more money if we could have a grant writing department that oversees all of the other departments and sees additional monies where maybe we hire our own staff to do that. Or, if we are going to do this on this basis, an RFP basis, that we have someone who is responsible controlling it so we make sure that we don't have grants that we are already getting, or like Ms. Rhode said, where we are applying for them just through an application, that we are putting those out for RFP's.

**LEGISLATOR FIELDS:**

We have a position that Legislator Foley put in to hire a grant writer and that was from last year. That has not been filled. I would expect that if I put in ten bills to hire ten grant writers, with the hiring freeze we are not going to see that happen. This is a way of not raising taxes, getting revenue into the County that we all know that we are in a crisis for and to allow us to not write grants – I mean, the intention is not to write for grants that we already write for. That's not part of it. If you read the fourth resolved, I think – would that answer your question on the fourth resolved? Do you have it in front of you?

**MS. AMRHEIN:**

I don't have it in front of me. It was not so much the issue of writing and getting reimbursed for grants that we are already getting. It was really the contingency issue. I am not aware of any other RFP's that go out where you say to someone yeah, we want to hire you and we will give you a percent of whatever you bring in. This isn't a new issue. It has been discussed before. I think I just would need some legal guidance as to whether that is acceptable to do it that way and put some parameters on what that percent would be based on the size of some of the grants that are out there.

**LEGISLATOR FIELDS:**

Why is that a problem? What if it is a ten million dollar grant and somebody takes a percent? Why is that a problem?

**MS. AMRHEIN:**

Because you could do it a lot cheaper in-house if you –

**LEGISLATOR FIELDS:**

But you are not. The whole point is we are not doing it.

**MS. AMRHEIN:**

You could also do it through a resolution which hires someone on a consulting contract out of a set fee of say \$50,000 a year and they would write your applications, but that is not like getting 100, \$200,000.

**LEGISLATOR FIELDS:**

But if you hire a grant writer and you pay them \$50,000, they don't always get the grant. So you are paying them with the hopes that you may get the grant. This is an effort to not have to pay the salary of someone and if they get the grant, we get the money. It doesn't matter how much – to me. I can't imagine that you would argue –

**LEGISLATOR CRECCA:**

If I could respond. I know I yielded to you, but if I can just respond to that. One of the problems is, is sometimes contingency arrangements are work for grants. I know from the non-for-profits that we deal with, but a lot of times they don't. What happens is grant writers then only want to go for the ones that are groundballs and don't necessarily meet with the objectives of the agency or department and what they are looking for. It is really – a lot of times it is on a case by case basis. And as Legislator Alden said, too, one of the concerns is – not every case, but in many of those cases contingency arrangements on grants end up unjustly rewarding the grant writer or unjustly compensating them.

Again, I am going to ask what I asked in the early committee. I would ask for an official response from the County Executive to address this bill and all the companion bills that go along with it for the departments and to respond to why that grant writing position has not been filled and what, if any, policy the County Executive intends to take regarding Legislator Fields' proposals.

**LEGISLATOR FIELDS:**

I just cannot imagine why anyone would not want more money to come into the County.

**MS. AMRHEIN:**

I thought the idea of having a grants writer was an excellent one, and I can tell you that when I was hired in the County in 1980 that is what I did for the County. So I do have some experience in the whole field of grants.

**LEGISLATOR FIELDS:**

The question was not even to you. I just don't get it. Thank you.

**LEGISLATOR CRECCA:**

Motion to table.

**LEGISLATOR HALEY:**

Second.

**CHAIRMAN COOPER:**

All those in favor?

**LEGISLATOR FIELDS:**

Opposed.

**CHAIRMAN COOPER:**

Opposed. Two opposed. **(Vote: 2/2/0/0 Opposed: Legislators Cooper and Fields)**

Is there another motion?

**LEGISLATOR CRECCA:**

There was a motion to approve but there was no second.

**LEGISLATOR FIELDS:**

Motion to approve.

**CHAIRMAN COOPER:**

Second. All those in favor? Opposed?

**LEGISLATOR CRECCA:**

Abstain.

**LEGISLATOR HALEY:**

Abstain.

**(Vote: 2/0/2/0 Abstentions: Legislators Haley and Crecca)**

**CHAIRMAN COOPER:**

Are there any other motions before the committee?

**LEGISLATOR FIELDS:**

Motion to table subject to call.

**LEGISLATOR CRECCA:**

For my colleague, Legislator Fields, that I was on the prevailing side, I will make a motion – can I do that? Can I make a motion to reconsider the tabling motion? Counsel? The motion didn't carry. I just realized that.

**MR. SABATINO:**

The motion was defeated. So far we have no action.

**LEGISLATOR FIELDS:**

And if there is a motion to table subject to call, does that take precedence over –

**MR. SABATINO:**

Table subject to call, since we haven't had a call on the motion or the vote that was taken on approval would be in order. It would take precedent over the pending motion if there is a second to it.

**CHAIRMAN COOPER:**

I will second the motion to table subject to call. All those in favor? Opposed? The resolution is tabled subject to call. **(Vote: 4/0/0/0)**

**CHAIRMAN COOPER:**

Now we can move back to our speakers. As I said earlier, we have a couple of gentlemen from the Townline Association that would like to address the committee again, Allen Leon and John Mendola. Please come up. Good afternoon. Welcome. If you can please state your names for the record.

**MR. MENDOLA:**

John Mendola.

**MR. LEON:**

I am Allen Leon, President of Townline Association. With me to my left you heard from John Mendola and also Jeff Heller from the Advisory Council of Townline.

I come before you today to discuss the siting of power plants on Long Island. Now, I know that the Article 10 process is on a State level, however, because there are some 20 to 30 proposals for power plants on Long Island, I respectfully suggest that the issue be addressed on a County level in that it affects all of the residents of Suffolk County.

When this was addressed to the entire Legislature a few weeks ago, there were some terms thrown out that I did not have the ability to address at that time, which I would like to at this time, and I will be brief.

Pennsylvania Power and Light in the form of Kings Parks Energy, Mr. Potter and company, is attempting to cash in on the fear of California rolling blackouts in order to gain favor to influence the public and the elected officials to site an ill conceived, inappropriate plant in Kings Park. I would like at this time to give a quick synopsis of the California situation so that you can understand what actually caused the problem and how it is somewhat different here in New York.

First of all, New York deregulated, California restructured. There is a difference. On 23 September, 1996, the California State Legislature passed Assembly Bill 1890. This was called the Electric Utility Industry Restructuring Act. AB 1890 sealed California's fate in 1996.

First of all, AB 1890, as we will call it, mandated an across the board ten percent reduction in utility bills to consumers by the utilities. Any new entities wishing to make an investment in California knew that in order to enter the market you must offer a discount to existing users in order to build your base. Because ten percent had already been taken off the top, new investors knew they would have to go beyond the ten percent discount in order to attract new customers. So this part of AB 1890 discouraged any investment in power generation in California.

Number two. AB 1890 mandated price caps to the consumer by the utilities. This had two devastating affects. Number one, because the utility was price capped in what it could charge the consumer, it could not pass through the higher cost of generation from the out-of-state plants. Therefore, it reduced their ability to pay for the electric. As a result, the out-of-state generators at that time were reluctant to sell to the utilities, because they weren't getting paid or at best getting cents on a dollar.



The second part of that problem was supply and demand. By price capping the utilities bill's to the consumer, it insulated the consumer from supply and demand. If the price for electricity was going up, the consumer was insulated by the price cap and, therefore, did not vary his usage and the demand didn't go down. We all know when price goes up, demand goes down. This link was broken in California because of Assembly Bill 1890.

Additionally, I would like to go back to Long Island for a moment here. The scenario as it plays out in the future, we all agree that we do need on Island generation, there is no question about. Townline Association, myself and everyone else involved understands that. However, what we need is appropriate on Island generation. There is a difference.

What I am suggesting, first of all in a general nature, is a megawatt surcharge to merchant plants. Let's take a look at what could happen in the future. A plant is sited somewhere on Long Island, probably not Kings Park because it is not the most appropriate site, but somewhere on Long Island a plant is sited. The electric generation from that plant may or may not be used on Long Island. However, LIPA is going to be called upon to increase the efficiency of the transmission lines in order to accommodate the new electric. Who is going to pay for the cost of the upgrading of the transmission lines? LIPA is going to pass it through to the Long Island consumer.

I suggest that megawatt surcharge the merchant plants and that surcharge be used to upgrade the infrastructure on either a pay-it-back or an as-is basis. I believe those of you who are attorneys know that let the punishment fit the crime. These merchant plants seek to make huge profits, let them contribute to the upgrading of the infrastructure.

Additionally, again I lobby for the County and the State to aggregately view all of the proposals not on a chronological basis, but in a pecking order of appropriateness. It is possible that a plant that is ahead of other applications might not be the most appropriate site. We have to make sure that we provide ourselves with a constant source of energy, but in an appropriate nature.

Does anyone else have any comments here? I thank you very much. I told you I would be brief. If we have to do this three minutes at a time by the number, so be it.

**CHAIRMAN COOPER:**

Allen, if you have something else you want to say --

**MR. LEON:**

No, I think I have addressed the issues that I would like to today. Thank you very much. Do you have any questions? Because I have Gordian Raacke here to answer them if you do.

**CHAIRMAN COOPER:**

Perhaps. We've heard both sides here today, not quite like crossfire --

**LEGISLATOR CRECCA:**

That was my disappointment, I thought we were going to get a crossfire going.

**CHAIRMAN COOPER:**

As you heard, you were here for the testimony of Mr. Potter and others from PPL, and they very clearly take the position that is diametrically opposed to that of Townline, you heard them, that the plant will be safe and that it will actually reduce pollutants in not just the Long Island area but in the Commack area, Kings Park area. Do you wish to comment on that? There are a number of questions that have arisen about the plant, but that is probably at the heart of this issue.

**MR. LEON:**

First of all, with regard to the appropriateness of the site, the site is only 200 feet from residential homes. If you watched Channel 4 News two weeks ago and probably read some of the New Jersey papers, you would have seen that there was an explosion in a power plant in New Jersey. Is it appropriate to build one of these plants so close to residential homes? I hate to dig into my military history, but if you can't throw a hand grenade far enough to stay

out of the explosion radius, then don't pull the pin. These homes are too close and it is impossible to adequately protect them from a plant that is sited in such proximity.

With regard to air quality, I agree with Mr. Potter, and I hope everybody sees that, that we do agree with something, that a natural gas fired plant is a more modern and more environmentally sound way to produce electricity. Mr. Potter was very careful in using the word natural gas. However, if you look at the preliminary scoping statement, you will see that this plant is dual fired with a backup of distillate. When this plant is fired on distillate oil, it is among the worst pollutants that you can breathe living so close to it.

**CHAIRMAN COOPER:**

You'll get your chance.

**MR. POTTER:**

Thank you, Sir.

**MR. LEON:**

Mr. Potter, with all due respect, somewhere between the prosecution and the defense lies the truth.

**MR. POTTER:**

Yes, you are absolutely right, Sir.

**MR. LEON:**

The Lexicon Air Study and many other of KPE, PPL's comments with regard to air pollution are based on displacement. Now, the preliminary scoping statement, if you have read it, and no offense, but it is dry reading, but at any rate claims that we need more electricity. Well, if we need more electricity, why would we be displacing generation that we have now? I can't believe that Mr. Kessel is going to purchase the KeySpan plants and leave them idle. It doesn't make sense.

Right now, at this time, there is no pollutants coming out of that site. Don't talk to me about regional and don't talk to me about Nassau/Suffolk Long Island. Talk to me about Commack. Right now there is no pollutants being generated from that site. How you can put something there that has emissions and tell me that it is better than before when there was nothing, I'm sorry, that would appear to be the old walnut and the pea game, and I wasn't very good at that either. There are more appropriate sites, and, in fact, we even understand that they were offered to Mr. Potter and company.

With regard to the time deadlines that Mr. Potter had suggested and the need for electric in the near future, we are not in disagreement. And in fact, if we all find an appropriate site and all of us put our shoulders to the grindstone, we can put that plug in the wall in a year instead of arguing about where to put the plant and then at the end of that still not have a place to put it. Again, this goes back to my earlier comments to the Legislature and to this committee in that we should be looking at all of the sites aggregately, picking out the most appropriate ones, and go with it. That will assure us not only the ability to keep the lights lit, but to do it in an appropriate manner. There is no reason why one community should shoulder the burden of the entire Island situation. We already have the Huntington recycling plant, the Northport facility, methane venting, etceteras, and also the incinerator at the medical facility.

Again, we are not opposed to siting new plants. In fact, I will be there with a shovel to help dig the foundation on an appropriate site. This one is not.

**LEGISLATOR CRECCA:**

Through the Chair, Allen, a question for you.

**MR. LEON:**

Yes, Sir.

**LEGISLATOR CRECCA:**

And I know you have seen them because I have seen them before today, too. The site plans that PPL has put forward, I would ask you to respond to taking the safety, because you already commented that you are concerned about the safety of the plant being so close to residences, but PPL has addressed here before us at least their view of the noise situation and the view situation from the residences.

I look at what the site looks like now and then I look at at least what they are showing in their computer model what it is going to look like, and I would ask you on those aspects are those areas where you think it would improve the site, (a) traffic, (b) the sightliness of the site itself right now, and I guess (c) the noise situation. If somebody else wants to answer that question instead, that is fine.

**MR. LEON:**

There is no question that the site could use improvement, but there are ways to improve the site without affecting the quality of life of the community.

**LEGISLATOR CRECCA:**

I don't disagree with you that you couldn't make the site look better without putting a power plant there, too. I am asking you, though, taking that safety one out because it is a real concern, the safety one. I am not trying to minimize it, but I just want to address those, how this will affect the community from a visual point of view, how it will affect from a noise point of view and a traffic point of view.

**MR. LEON:**

Visually, although it has been said that only three or four homes I believe can see it, visually it is set below the grade of the homes, so the homes are in effect looking at a balcony down on it. Sometimes you can guild a lily, sometimes you can't.

With regard to noise, there are many decibel levels that have to be dealt with. A low droning noise, which has a very low decibel level, can be just as annoying as a loud decibel bang or clang of a pot or a pan let's say. But more importantly, the area is zoned for light industrial. This is a heavy industrial use and it is not appropriate to site a heavy industrial use four-tenths of a mile from the grade school of North Ridge and seven-tenths of a mile from the high school.

**LEGISLATOR CRECCA:**

You raised a safety concern area.

**MR. LEON:**

As far as the truck traffic that you mentioned --

**LEGISLATOR CRECCA:**

I'm sorry, I thought you were done.

**MR. LEON:**

Let me explain this, that the current owners of that site also own a like facility around the corner on Old Northport Road. If this site, and God forbid it ever does, would be converted to a power plant use, the truck traffic that is there now would continue around the corner at the owner's other site. So, in effect, what we are doing is we are increasing truck traffic by adding the power plant truck traffic to the existing, not replacing it.

If you take a ride down to the Inwood area on the water where the Inwood terminals are where they bring in motorized barges for gasoline, diesel fuel and home heating fuel, when you start running trucks through a community you constantly see a rainbow on the road, there is degradation of vegetation. It is just an inappropriate use so far from the expressway up in the Townline area. The bottom line is there are other sites that are more appropriate. Anything else?

**CHAIRMAN COOPER:**

Thank you.

**MR. LEON:**

Notice, Mr. Haley, I didn't say I represented anyone this time. Thank you, Sir.

**CHAIRMAN COOPER:**

Allen, thank you very much. Jim, if it is okay, I wanted to ask you a follow-up question if I could, and I believe that you wanted to have an opportunity to address a couple of points that were made. But what do you -- representing PPL, what do you see as the minimum acceptable distance from residential homes to build a new power plant? The Spagnoli Road plant, I don't know if you are familiar with it, in Melville I believe that would be a mile to a mile and a half.

**MR. POTTER:**

Actually, it isn't a mile and a half, but --

**CHAIRMAN COOPER:**

But it is a much greater distance from here. Is there any minimum distance, because 200 feet seems like pretty darn close to people's homes.

**MR. POTTER:**

First of all, let's be perfectly factual and let's start by taking a measurement from our stack, which is the farthest -- the closest piece of equipment to a residential house. Let's go from that stack to the nearest residence. It is closer to 1,000 feet. It is a little over 900 feet, it is not 200. Three football fields. It is not 200 feet. The right-of-way alone, the LIPA right-of-way that we are bordering that has Iroquois gas pipeline in five underground transmission lines is over 200 feet wide, just the right-of-way. Our stack to the nearest residence is over 900 feet, three football fields. That is more than adequate distance for the type of use that we are proposing here. This is a fact and I encourage you to go to the site. We'll lay out on the property with stakes if you like exactly where our plant is going to be located. It is 900 feet, three football fields, not 200.

**CHAIRMAN COOPER:**

Nine-hundred feet definitely is over four times further than 200 feet, but it is still relatively close. Let's take other plants that you have built. How close have some of those plants been to homes?

**MR. POTTER:**

The Wallingford facility where we are building five units, we are putting five units in, not six, five, and we don't have the same topography difference, elevation difference, is less than 400 feet away. The Northport Power Plant has plants less than 1,000 feet away. This is a 1,500 megawatt facility that is noisy, loud, old. The Port Jeff facility has houses that are less than 200 feet away from millions of gallons of oil storage. So there are homes that live in close proximity to power plants nowadays.

The distinction here with this site is that we have an elevation difference, number one. Number two, the type of plant we are building doesn't even approximate from a size perspective or visual impacts perspective Northport, Port Jeff, any of the existing generating technologies. What drives, I think, how close to homes you can be is whether you are going to be a nuisance or not, nuisance in terms of noise, nuisance in terms of visual, nuisance in terms of truck traffic. This facility will not be a nuisance.

**CHAIRMAN COOPER:**

I don't want to interrupt, but leaving aside the question about pollution emissions, because I don't think we are going to settle that this afternoon, but a concern was also expressed I believe by Mr. Leon of a safety issue. Could you address that for a minute?

**LEGISLATOR HALEY:**

From the hand grenade approach.

**MR. POTTER:**

Absolutely, it is a valid point. All of these are valid points. There is no question about it and we would love the opportunity to sit down with Townline and give our perspective on dealing with some of their concerns.

**CHAIRMAN COOPER:**

And also, excuse me for interrupting, I mean, I am sure if you took a show of hands here that there is no one sitting here today that would like a power plant built within 1,000 feet of their homes. So the position of Townline and the position that they represent, they are valid concerns, they are valid issues being raised.

**MR. POTTER:**

They are. I agree that they are valid concerns. I think what we have to do first is we have to work from a basis of truth and facts and then work from there as to whether those are issues or not. I think if you had landfills in your backyard and a 750 ton per day resource recovery facility, stone operation, sand and gravel operations, asphalt plants, tire pits, precast concrete operations, all heavy industrial uses over a several hundred acre area, which is designated as heavy industrial use for most of it, I think you would agree that that is an appropriate area for a power plant.

Let me just focus on one thing. Mr. Leon correctly characterized the site as being zoned light industrial, but it is more accurate and factual to state that it is zoned light industrial, but it has what is called a continuing use variance and it is zoned for a sand and gravel operation which is a continuing use variance, which means that it is actually a heavy industrial use on a property that is deemed light industrial. So it is an acceptable use for that property, but in 1976 it was given that continuing use variance. So it is actually a heavy industrial activity going on that site right now with, again, hundreds of trucks a week going on and off that site.

This is a perfect site for a power plant. I would encourage you to go to it. We have had DEC officials there, we have had officials from the Department of Public Service. Without exception, anyone that goes to this site thinks where are all the houses, because it has been characterized as a site surrounded by houses. It is not a site surrounded by houses. This is a site that is surrounded on the south, again, I am dealing strictly with facts here, on the south, the southern border is a pipeline right-of-way and a right-of-way with five underground transmission lines. Then there is the candy section of Commack. That is anywhere from 30 to 40 feet higher in elevation than our property. To the north there is heavy industrial uses, to the west there is heavy industrial uses and then Sunken Meadow Parkway and then the Smithtown landfill. I'm sorry, that is to the east. To the west is the Huntington landfill and the resource recovery facilities. So it is only on the southern border that we have close proximity to houses and it is not 200 feet away, it is 1,000 feet away from the center of our stack to the nearest residence.

If I can just go to a few other questions. Let me talk about oil firing for a second. Our facility is being permitted to be capable of running on oil for 720 hours out of a year. Do we ever expect to run on oil? No, and here is why. The plant will only need to run on oil if there is a catastrophic failure of the Iroquois gas pipeline. That is actually a requirement of the New York State reliability rules and criteria. You have to have backup oil to deal with a possible outage of the gas supply, which is one of the only gas supplying pipelines on Long Island. So if all the plants on Long Island are burning gas and the pipeline goes out, Long Island's transmission system will crash. So we have to have the ability to dynamically switch to operating on oil and that is effectively what we are designing into the plant. Do we expect to run 720 hours on oil? No. Are there other plants that have the similar capability on Long Island? Yes. The best one to look at is Stony Brook. Stony Brook College has a turbine exactly like ours on site that can run on oil, more hours than our plant can run on oil. Have they run on oil? No, they have not run on oil since 1996.

We are not talking about heavy oil here, which is what Northport and Port Jeff burn. We are talking about an oil very similar to that which you use in your house, almost the exact same



oil that you use in your house for home heating. This is not cheap fuel, It is very expensive fuel. We are going to have a lot of expenses associated with delivery to the site. But those tanks are there for reliability reasons to serve as a back-up fuel supply in the event of a pipeline outage. And again, it is a requirement under New York State reliability rules and criteria.

Let me go to the next issue I saw. You are absolutely right, LIPA is not going to potentially purchase all these oil fired facilities -- oil and gas fired fossil units just to leave them idle. I have never stated that these facilities will be idle. What I have stated is that one of two things will happen. Either our plant will run and displace another unit, or it won't run. If it runs it will displace another unit except on the most extreme peak day where it has to run, and if it were not available, you'd have a blackout. Those are the only three scenarios. So if it runs, it has to displace something. If it displaces something, it causes it to run less, which means it is not polluting.

These studies are sanctioned by the Department of Environmental Conservation. There is not an air scientist out there that would call into question the protocol for running these studies or the results for that matter, and if there is, we would be more than happy to sit down and agree to a one-on-one conversation as to whether our {mallings} protocol or the results are accurate or not.

**CHAIRMAN COOPER:**

Jim, I'm sorry, before you leave, that if I can just ask you a follow-up question. Townline's position that construction of this plant in Kings Park would necessarily, certainly looking at it long-term over the course of a year, increase pollutant levels.

**MR. POTTER:**

That is actually not the way it works.

**CHAIRMAN COOPER:**

I understand, but that's their position. You clearly differ. I guess what it really comes down to is just how many days per year would the new plant displace energy generation at an older plant, or how many days it would supplement that dirtier generation. If the majority of days were the later and you would be operating both a dirty plant and the new plant, then I guess there would be a consensus that it would increase pollution overall. If, however, there were more days that it would displace generation, then perhaps you are right.

**MR. POTTER:**

And that is exactly what the model does, Chairman. What it does is it evaluates how often our plant runs and the other plants run to serve load and it looks at different -- what it does is it recreates a market, a wholesale market. The way the actual New York ISO operates on a bid basis and it determines whether our plant would be more efficient, i.e. lower costs than other generators on an hour to hour basis making certain fuel assumptions that are provided to us by {NYSERTA}. Then we run other fuel price scenarios. Without exception, this plant will improve air quality on Long Island. Don't believe me, though. Take the time, do the research. Talk to people like the Natural Resource Defense Council, see what they say about new gas fired generation and whether they believe it results in improvements in air quality.

**CHAIRMAN COOPER:**

Working under the assumption that we don't believe you, is there any way that you can guarantee this, guarantee that the overall pollution levels in the Kings Park/Commack area will be reduced, and if that was not the case, if you intentionally or unintentionally are not giving us the accurate picture, if pollution actually does increase there will be onerous fines, penalties?

**MR. POTTER:**

A couple of things. First of all, the Article 10 process has what is called an adjudicatory phase. That is were an ALJ sits, he is a judge, and he oversees a hearing process, and as it relates to the issue of air quality, Townline will have the opportunity to hire experts that we



will have to pay for to critique the results of our analyses. That process will determine whether what we are saying is factual or not, and a judge and representatives of the Department of Environmental Conservation will determine whether what we are saying is true. That is number one.

Number two. There is no way you can guarantee improvements to air quality, because in reality power plant emissions represent a relatively small percent of the total emission problem in Long Island. The bigger source of emissions on Long Island and elsewhere is primarily automobile and homes. That is the bigger source. So you can't guarantee emission reductions because you can't guarantee how many automobiles are going to be on the road in any given time and the growth resulting from or the increase in emissions resulting from growth. But the arbiter on this issue is a judge and experts that Townline can hire and we obviously have on our staff, and they will determine whether what we are saying is true or not. That is what the Article 10 process does. Those hearings are held here locally. There is a board that sits over and judges as to whether these studies are accurate and real.

Can I go on and answer a few other questions that came up?

**CHAIRMAN COOPER:**

Sure.

**MR. POTTER:**

First of all, I want to clarify something. I don't want to be misquoted here, so I am going to make it very simple. LIPA has never once offered to us to construct a site at the Shoreham station. Never. Never, ever once. So if you hear otherwise, I am here to tell you it hasn't happened. That is number one. Number two, if we were offered the ability to locate there, I would then turn around and say to Mr. Kessel give me \$200 million, because I want to take that \$200 million to build the required transmission infrastructure to get my power from Shoreham to where it is needed, and that is what any other person is going to require to build there. So, that is that. Get that issue off the table.

All right. We dealt with the zoning issue. The next thing, this is related to Shoreham, other sites that are available. What is critical for people to understand is the transmission complexities of Long Island. You can't just locate a plant anywhere on Long Island, because you have to get the power from where you build the plant to where it is needed. Two substations on Long Island. There are only two substations on Long Island that you can interconnect to without requiring hundreds of millions of dollars of transmission upgrades. One is the Ruland Road substation, which happens to be over near Spagnoli Road, and that is why KeySpan is locating there, proposing to. The second is the Pilgrim substation. As I indicated earlier, the system reliability impact study that was completed for our project and approved, which is highly unusual to have an approved study done as effectively and completely and approved in the time fashion we did. That is proof that we can interconnect our facility without adding hundreds of millions of dollars to the cost of our plant, which ultimately would have to be covered by the customer.

So the biggest issue driving the siting of power plants is proximity to gas, fuel, proximity to the transmission infrastructure to get the power out, and three, all of those other critical issues relating to visual, noise, water, on and on and on. That is why this is a good site, and anyone that has ever been there that is in this industry agrees this is a good site for a power plant.

**CHAIRMAN COOPER:**

Allen, would you like to --

**MR. LEON:**

Yes, Sir, as long as you're allowing point/counter point, let's get into it. First of all, with regard to the site, we had a conversation with a CEQ from another company that is siting on Long Island further out east and his exact comment to us was that he looked at this site before Pennsylvania Power and Light discovered it and determined that it was inappropriate

and he went on to other areas. It was inappropriate because it is only 20.9 acres, number one, and number two, it is in too close proximity to the residential homes.

Now, the pictures that Pennsylvania Power and Light, KPE, has produced is from the site looking toward the homes. Now, I have got to tell you, I was on television a few years ago, and they even made me look like I had a full head of hair. So, what I ask is that if you are going to visit the site, I would ask that you go to Peppermint Road, stand between the homes. There is currently a crane standing in approximately the same position as where this stack -- one of the stacks would be. You tell me how close that is to your bedroom window. The dotted line that Mr. Potter had --

**MR. POTTER:**

It is 200 feet, Allen.

**MR. LEON:**

The dotted line that Mr. Potter had described was a dotted line drawn around the turbine buildings, across their property, across the LIPA right-of-way, through the backyard, side yard and front yard of the adjacent homes to a curb line on Peppermint. Well, it is inappropriate because people live on their entire lot of land.

In discussions with the Town of Smithtown, Planning Commissioner, etceteras, if a light industrial use were proposed for that site, and I am just using this as a point of argument and it is not the case, although it might be in the future I hope, a nursing home. If a nursing home were to be sited on that proposed site, the town would require a 100 foot buffer zone beyond the LIPA right-of-way, because in their terminology the LIPA right-of-way is barren. Therefore, they would require a 100 foot of heavy vegetation on the site itself, which would even put a nursing home 300 feet from the rear yards of the homes on Peppermint.

I would like to next get into, and I was not planning on this, but if we are going to swim, let's get wet. Let's talk about the backup fuel requirement. Mr. Potter is 100 percent correct -- that is twice today that we have agreed on something. He is 100 percent correct in that he is required to have a backup fuel. But let's look into why he is required to have a backup fuel. There are two basic types of purchases of natural gas. One is called a contract. If you purchase a contract you will pay more for natural gas, but it will be a guaranteed supply. If you chose to drive corporate profits, stock dividends and bonuses through the roof, then what you do is you purchase natural gas on an as-need basis, which is cheaper than a contract. However, if you purchase on an as-is basis you are not guaranteed a supply. Therefore, you have to have a backup fuel. So if we follow (a) to (b) to (c), we see that the backup fuel requirement is really a manifestation of corporate profits and stock dividends.

With regard to the water, Mr. Potter said earlier that they are making a half a million dollar contribution to the Suffolk County Water Authority. That is probably true and I have no reason to debate that. However, the cost of denitrification of that contaminated well is \$1.6 million. Donating a half a million to it is very congenial, however, who is going to pay for the 1.1 that is left? Understand this, that based on where the well is, the power plant as proposed would be using water from our current potable water supply. We would have to come up with 1.1 million in increased rates or somehow to denitrify the well to drink from it. Now, look at what we've done. We've taken our potable well source to cool turbines and forcing our residents to drink water out of a priorly contaminated well. It doesn't make a whole lot of sense to me.

With regard to the air quality study, It may be true that the GE protocol, which, by the way, GE sells the turbines that PP and L plans to purchase. If in fact the study is correct, and we will give it the benefit of the doubt for now, but it was developed by GE, the background air quality as proposed in the Lexicon Study is Eisenhower Park. Now, if one goes to Eisenhower Park, where is it? It is immediately in the contamination plume of the Nassau County recycling plant on Meadowbrook Parkway. So is that in fact a ground zero situation that we should look at? No, I don't think so, because it is already an elevated situation.

The second part of the Lexicon Study talks about the air quality in Babylon. Well, if you go

to the Babylon Long Island Rail Road freight yard and listen to the diesels that idle all night long and take an air quality study there, sure, this might be beautiful in Commack, but let's take a real look at where they are taking their studies from.

Again, Mr. Potter talks about the gas fired turbines. There is no question in anyone's mind that a gas fired turbine is the correct way to produce electric in a hurry if you need it. It has quick start-up. Although it is very inefficient, it is still a good way in Long Island to produce electricity. However, they are not gas firing those turbines, they are using distillate also and that is where the problem is.

With regard to the stipulation and the discussions that Mr. Potter was alluding to that will go on in the Article 10 process, that is correct. I have no qualm with that. However, many of these are based on information that has to be produced in the preliminary scoping statement, which you cannot come back later and bring into the issue.

Kings Park Energy, PPL, Mr. Potter and company, have on many occasions refused to submit all available information, so that we can't even question it because we can't come back later for it. Our attorney wrote that in our responses and they continue to keep this under wrap. As a result, we may not have the ability to discuss these things later on.

**MR. POTTER:**

I have to respond. Five minutes -- two minutes.

**LEGISLATOR HALEY:**

I am giving everybody two minutes. I'm out of here.

**CHAIRMAN COOPER:**

That is okay. I'll stick around.

**MR. POTTER:**

First of all, thank you, Sir. As it relates to gas, natural gas, we have a plant that we are constructing up in Wallingford, Connecticut and Mr. Leon characterizes our decision to use oil as purely profit motivated and that we are installing oil so that we can arbitrage between an {interruptible} gas contract and a firm gas contract. What is interesting is that up in Wallingford, Connecticut we have a plant that is 100% gas. There is no oil on site. The reason we are putting oil in New York is because we are required to. We are not required to do so in Connecticut. So your argument about profits just has no bearing whatsoever, Sir, none.

**MR. LEON:**

The Public Service Commission was asked on the night after Mr. Potter's presentation in Northport is a backup fuel required. John, their answer?

**MR. MENDOLA:**

No. Without any uncertain question, the answer was no. And also based on economics right from their preliminary scoping statement. I am quoting from their preliminary scoping statement. "The use of alternative fuel, oil, will depend on the economics between natural gas and distillate oil as well as pipeline deliverability restrictions." It is not just deliverability restrictions in the pipeline itself, it is also based on economics. So let's get the facts out in the open.

**MR. POTTER:**

John, what you should know --

**MR. MENDOLA:**

You are declaring here that you have been stating facts. Your advertising has been stating that all you are doing is stating the facts, but you are not telling all of the facts, and therefore when you make statements regarding other people who go about saying anything not to have this power plant approved in Kings Park and false claims and statements are made -- hear me out. When you are not producing all of the facts and the fact of the matter

is that Townline Association has filed in accordance with Article 10, the right protocol in answering your preliminary scoping statement. We have filed with the Public Service Commission our response. Any ad hoc conversation is useless.

**MR. POTTER:**

So why are you here? I thought it was useless.

**LEGISLATOR CRECCA:**

Gentlemen, we are getting to the point where, and I don't mean to interrupt the Chair, but we are getting to the point where we are going to need to wrap up.

**CHAIRMAN COOPER:**

We are going to lose most of the committee, unfortunately.

**LEGISLATOR CRECCA:**

One of the things we were discussing -- go ahead, Jon. I'm sorry.

**CHAIRMAN COOPER:**

I think that this is very useful having this discussion/debate. What I would like to offer, if both parties would agree, would be to come back. Perhaps we could have a special meeting of the committee where we can take up this issue solely so you'll have more time to devote -- these are very important issues that are being raised.

**MR. POTTER:**

Yes, they are.

**CHAIRMAN COOPER:**

Unfortunately we are under time constraints. It is after five o'clock. We actually we have several speakers yet that I am going to ask whether they would be willing to postpone their commentary until the next committee meeting. If it is all right, I would suggest that we perhaps arrange at a later point to continue these discussions, either one side or both sides, either at the next regularly scheduled meeting of the Economic Development and Energy Committee or perhaps at a separate meeting where we can consider this issue solely.

**MR. POTTER:**

Anything that promotes dialogue between ourselves and Townline is good.

**LEGISLATOR CRECCA:**

We would certainly -- actually what I would suggest, and the Chairman, too, I know I would personally be prepared to prepare questions to ask so that both sides can address those questions. If that is what the sides want to do. Maybe the Chairman and the committee members sort of move the dialogue forward and give everyone an opportunity to address those.

**MR. POTTER:**

Would these be questions you would submit to us before the meeting so we could be prepared to answer them?

**LEGISLATOR CRECCA:**

No, they are not going to be anything complicated. Certainly there is no questions, Jim, that you know this issue better than we do. Allen, you know it better than we do. I mean, I wasn't thinking about -- no, I am thinking about sort of what we have got going now except that we could really structure this better and when we don't all have to run out and have other obligations.

**MR. LEON:**

Townline accepts the proposal as proposed by the Chairman.

**CHAIRMAN COOPER:**

I'll have -- either I or my staff will be in touch you, Allen, and you, Jim, over the next few

days. We will pick another mutually convenient date to get together again, either the next regularly scheduled meeting or perhaps we can agree on another time that we can take this up on its own.

**MR. POTTER:**

Sure. Thank you.

**MR. LEON:**

Thank you, Mr. Chairman.

**CHAIRMAN COOPER:**

Thank you very much. I do apologize. We did have several other speakers. Certainly if you would like to come and speak before what looks like will be the one remaining member of this committee, Peter Quinn, if you are still here.

**MR. QUINN:**

I am going to pass.

**CHAIRMAN COOPER:**

Okay, great. And Amy, it is on the CO2 bill which has been tabled. Is it all right if you delay?

**AUDIENCE MEMBER:**

Yes.

**CHAIRMAN COOPER:**

Dr. Visile?

**DR. VISILE:**

I would like to speak.

**CHAIRMAN COOPER:**

Sure. And again, thank you everyone very much for coming down. I do appreciate it. Carmine.

**DR. VISILE:**

My name is Dr. Carmine Visile.

**CHAIRMAN COOPER:**

Carmine, can you just check to see if your mike is on, please?

**DR. VISILE:**

What I had to say relates to everything you guys talked about it turns out. The technology I want to talk about, PP and L ran the best field tests there are. To put things in perspective, the California energy problem was brought up. Now, there is a pie chart I would like to leave you. I e-mailed you a copy of it.

**CHAIRMAN COOPER:**

Do you have an extra copy of that?

**DR. VISILE:**

Yes. The residential energy pie in California is broken on a California energy website. The space conditioning is 36%; 33% for water heating; 4% for clothes drying; color TV 1%; cooking 6%; refrigeration 8%; miscellaneous 10%; 2% for motors. Now, 33% of the energy used, residential, is for water heating. There are no energy star ratings for water heaters in the country. There are no energy star ratings for drain water heat recovery systems, which is what I invented, and I got developed on a Department of Energy grant.

Wastewater – water heating is a utility cash cow. Now, to put it in perspective, according to

DOE energy information, electric water heaters provide 45% of US residential water heating in 1995. The EIA estimates that in 1995 residential water heaters in the US consumed 740 billion kilowatt hours of energy, and commercial water heaters consumed 320 billion kilowatt hours.

If drain water heat recovery and tankless water heaters were installed in America, you wouldn't need all these power plants. This impacts your problem discussed today directly. In Europe they have tankless water heaters. In American we have big things that have tremendous standby laws.

**CHAIRMAN COOPER:**

Is this technology being used anywhere in the country?

**DR. VISILE:**

Sure. We have a tax credit in Oregon, we have got a tax credit from Minnesota Power, we have a tax credit from Madison Gas and Electric – not tax credit, rebate. Rebate from Connecticut Light and Power. In February we got a rebate from LIPA. They limited it to commercial electric installations.

I came here today for help because, number one, it is very difficult to contact the State agencies that can use this technology in health care facilities, cafeterias and whatnot. I will give you an example. I was at Brookhaven two days ago. They pay five cents a kilowatt hour for electricity. So we pay through the nose for electricity. So they have no incentive to cut down their electricity use in a federal agency on Long Island. So these are the problems we're running into.

The fact of the matter is that 955 billion kilowatt hours translates to sight energy the equivalent of 20 billion gallons of oil a year. When you go to source energy, it is 3.2 times. If you have an electric water heater, every kilowatt you waste it is 3.2 kilowatts worth of oil you have to burn, or gas.

There is no way to get this technology throughout the country without help from the Legislators. I mean, I held off for a long time coming here, but I need help.

**CHAIRMAN COOPER:**

Carmine, what I would suggest, why don't you before you leave meet my Chief Legislative Aide, Gerard McCreight. Perhaps the best thing would be for us to set up a meeting at my district office and we'll see if there is some way that we can draft a resolution that could be of assistance in this area. Is Gordian still – Gordian, I want to get your input on this as well at some point.

**DR. VISILE:**

He has one in his house.

**MR. RAACKE:**

It works.

**CHAIRMAN COOPER:**

Good.

**DR. VISILE:**

The important thing here is we have a LIPA rebate program. This is the first commercial rebate in the country. Most commercial installations use gas. Gas companies are against conservation. I am not going to waste me time with gas companies, okay, because it was always cheaper. Now it is expensive. So, you know, what I would like to do is get this expanded to KeySpan. I need your help.

**CHAIRMAN COOPER:**

We'll set up a meeting.



**DR. VISILE:**

Okay, great. Thank you for your time.

**CHAIRMAN COOPER:**

Thank you. This meeting is adjourned.

*(The meeting was adjourned at 5:10 p.m.)*

{ } denotes spelled phonetically